



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1950

Introduced 2/15/2013, by Sen. Pamela J. Althoff

#### SYNOPSIS AS INTRODUCED:

30 ILCS 235/2

from Ch. 85, par. 902

65 ILCS 5/3.1-35-50

from Ch. 24, par. 3.1-35-50

Amends the Public Funds Investment Act. Provides that any unit of local government (now, municipalities and counties only) may invest its public funds in interest bearing bonds of any county, township, city, village, incorporated town, municipal corporation, or school district, of the State of Illinois, of any other state, or of any political subdivision or agency of the State of Illinois or of any other state. Amends the Municipal Code to provide that municipalities are authorized to invest the funds and public moneys in the custody of the municipal treasurer in accordance with the Public Funds Investment Act.

LRB098 10590 HLH 40852 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning finance.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Public Funds Investment Act is amended by  
5 changing Section 2 as follows:

6 (30 ILCS 235/2) (from Ch. 85, par. 902)

7 Sec. 2. Authorized investments.

8 (a) Any public agency may invest any public funds as  
9 follows:

10 (1) in bonds, notes, certificates of indebtedness,  
11 treasury bills or other securities now or hereafter issued,  
12 which are guaranteed by the full faith and credit of the  
13 United States of America as to principal and interest;

14 (2) in bonds, notes, debentures, or other similar  
15 obligations of the United States of America, its agencies,  
16 and its instrumentalities;

17 (3) in interest-bearing savings accounts,  
18 interest-bearing certificates of deposit or  
19 interest-bearing time deposits or any other investments  
20 constituting direct obligations of any bank as defined by  
21 the Illinois Banking Act;

22 (4) in short term obligations of corporations  
23 organized in the United States with assets exceeding

1           \$500,000,000 if (i) such obligations are rated at the time  
2           of purchase at one of the 3 highest classifications  
3           established by at least 2 standard rating services and  
4           which mature not later than 270 days from the date of  
5           purchase, (ii) such purchases do not exceed 10% of the  
6           corporation's outstanding obligations and (iii) no more  
7           than one-third of the public agency's funds may be invested  
8           in short term obligations of corporations; or

9           (5) in money market mutual funds registered under the  
10          Investment Company Act of 1940, provided that the portfolio  
11          of any such money market mutual fund is limited to  
12          obligations described in paragraph (1) or (2) of this  
13          subsection and to agreements to repurchase such  
14          obligations.

15          (a-1) In addition to any other investments authorized under  
16          this Act, a municipality, ~~or a county,~~ or other unit of  
17          government may invest its public funds in interest bearing  
18          bonds of any county, township, city, village, incorporated  
19          town, municipal corporation, or school district, of the State  
20          of Illinois, of any other state, or of any political  
21          subdivision or agency of the State of Illinois or of any other  
22          state, whether the interest earned thereon is taxable or  
23          tax-exempt under federal law. The bonds shall be registered in  
24          the name of the municipality, ~~or county,~~ or other unit of  
25          government, or held under a custodial agreement at a bank. The  
26          bonds shall be rated at the time of purchase within the 4

1 highest general classifications established by a rating  
2 service of nationally recognized expertise in rating bonds of  
3 states and their political subdivisions.

4 (b) Investments may be made only in banks which are insured  
5 by the Federal Deposit Insurance Corporation. Any public agency  
6 may invest any public funds in short term discount obligations  
7 of the Federal National Mortgage Association or in shares or  
8 other forms of securities legally issuable by savings banks or  
9 savings and loan associations incorporated under the laws of  
10 this State or any other state or under the laws of the United  
11 States. Investments may be made only in those savings banks or  
12 savings and loan associations the shares, or investment  
13 certificates of which are insured by the Federal Deposit  
14 Insurance Corporation. Any such securities may be purchased at  
15 the offering or market price thereof at the time of such  
16 purchase. All such securities so purchased shall mature or be  
17 redeemable on a date or dates prior to the time when, in the  
18 judgment of such governing authority, the public funds so  
19 invested will be required for expenditure by such public agency  
20 or its governing authority. The expressed judgment of any such  
21 governing authority as to the time when any public funds will  
22 be required for expenditure or be redeemable is final and  
23 conclusive. Any public agency may invest any public funds in  
24 dividend-bearing share accounts, share certificate accounts or  
25 class of share accounts of a credit union chartered under the  
26 laws of this State or the laws of the United States; provided,

1 however, the principal office of any such credit union must be  
2 located within the State of Illinois. Investments may be made  
3 only in those credit unions the accounts of which are insured  
4 by applicable law.

5 (c) For purposes of this Section, the term "agencies of the  
6 United States of America" includes: (i) the federal land banks,  
7 federal intermediate credit banks, banks for cooperative,  
8 federal farm credit banks, or any other entity authorized to  
9 issue debt obligations under the Farm Credit Act of 1971 (12  
10 U.S.C. 2001 et seq.) and Acts amendatory thereto; (ii) the  
11 federal home loan banks and the federal home loan mortgage  
12 corporation; and (iii) any other agency created by Act of  
13 Congress.

14 (d) Except for pecuniary interests permitted under  
15 subsection (f) of Section 3-14-4 of the Illinois Municipal Code  
16 or under Section 3.2 of the Public Officer Prohibited Practices  
17 Act, no person acting as treasurer or financial officer or who  
18 is employed in any similar capacity by or for a public agency  
19 may do any of the following:

20 (1) have any interest, directly or indirectly, in any  
21 investments in which the agency is authorized to invest.

22 (2) have any interest, directly or indirectly, in the  
23 sellers, sponsors, or managers of those investments.

24 (3) receive, in any manner, compensation of any kind  
25 from any investments in which the agency is authorized to  
26 invest.

1           (e) Any public agency may also invest any public funds in a  
2 Public Treasurers' Investment Pool created under Section 17 of  
3 the State Treasurer Act. Any public agency may also invest any  
4 public funds in a fund managed, operated, and administered by a  
5 bank, subsidiary of a bank, or subsidiary of a bank holding  
6 company or use the services of such an entity to hold and  
7 invest or advise regarding the investment of any public funds.

8           (f) To the extent a public agency has custody of funds not  
9 owned by it or another public agency and does not otherwise  
10 have authority to invest such funds, the public agency may  
11 invest such funds as if they were its own. Such funds must be  
12 released to the appropriate person at the earliest reasonable  
13 time, but in no case exceeding 31 days, after the private  
14 person becomes entitled to the receipt of them. All earnings  
15 accruing on any investments or deposits made pursuant to the  
16 provisions of this Act shall be credited to the public agency  
17 by or for which such investments or deposits were made, except  
18 as provided otherwise in Section 4.1 of the State Finance Act  
19 or the Local Governmental Tax Collection Act, and except where  
20 by specific statutory provisions such earnings are directed to  
21 be credited to and paid to a particular fund.

22           (g) A public agency may purchase or invest in repurchase  
23 agreements of government securities having the meaning set out  
24 in the Government Securities Act of 1986, as now or hereafter  
25 amended or succeeded, subject to the provisions of said Act and  
26 the regulations issued thereunder. The government securities,

1 unless registered or inscribed in the name of the public  
2 agency, shall be purchased through banks or trust companies  
3 authorized to do business in the State of Illinois.

4 (h) Except for repurchase agreements of government  
5 securities which are subject to the Government Securities Act  
6 of 1986, as now or hereafter amended or succeeded, no public  
7 agency may purchase or invest in instruments which constitute  
8 repurchase agreements, and no financial institution may enter  
9 into such an agreement with or on behalf of any public agency  
10 unless the instrument and the transaction meet the following  
11 requirements:

12 (1) The securities, unless registered or inscribed in  
13 the name of the public agency, are purchased through banks  
14 or trust companies authorized to do business in the State  
15 of Illinois.

16 (2) An authorized public officer after ascertaining  
17 which firm will give the most favorable rate of interest,  
18 directs the custodial bank to "purchase" specified  
19 securities from a designated institution. The "custodial  
20 bank" is the bank or trust company, or agency of  
21 government, which acts for the public agency in connection  
22 with repurchase agreements involving the investment of  
23 funds by the public agency. The State Treasurer may act as  
24 custodial bank for public agencies executing repurchase  
25 agreements. To the extent the Treasurer acts in this  
26 capacity, he is hereby authorized to pass through to such

1 public agencies any charges assessed by the Federal Reserve  
2 Bank.

3 (3) A custodial bank must be a member bank of the  
4 Federal Reserve System or maintain accounts with member  
5 banks. All transfers of book-entry securities must be  
6 accomplished on a Reserve Bank's computer records through a  
7 member bank of the Federal Reserve System. These securities  
8 must be credited to the public agency on the records of the  
9 custodial bank and the transaction must be confirmed in  
10 writing to the public agency by the custodial bank.

11 (4) Trading partners shall be limited to banks or trust  
12 companies authorized to do business in the State of  
13 Illinois or to registered primary reporting dealers.

14 (5) The security interest must be perfected.

15 (6) The public agency enters into a written master  
16 repurchase agreement which outlines the basic  
17 responsibilities and liabilities of both buyer and seller.

18 (7) Agreements shall be for periods of 330 days or  
19 less.

20 (8) The authorized public officer of the public agency  
21 informs the custodial bank in writing of the maturity  
22 details of the repurchase agreement.

23 (9) The custodial bank must take delivery of and  
24 maintain the securities in its custody for the account of  
25 the public agency and confirm the transaction in writing to  
26 the public agency. The Custodial Undertaking shall provide

1           that the custodian takes possession of the securities  
2           exclusively for the public agency; that the securities are  
3           free of any claims against the trading partner; and any  
4           claims by the custodian are subordinate to the public  
5           agency's claims to rights to those securities.

6           (10) The obligations purchased by a public agency may  
7           only be sold or presented for redemption or payment by the  
8           fiscal agent bank or trust company holding the obligations  
9           upon the written instruction of the public agency or  
10          officer authorized to make such investments.

11          (11) The custodial bank shall be liable to the public  
12          agency for any monetary loss suffered by the public agency  
13          due to the failure of the custodial bank to take and  
14          maintain possession of such securities.

15          (i) Notwithstanding the foregoing restrictions on  
16          investment in instruments constituting repurchase agreements  
17          the Illinois Housing Development Authority may invest in, and  
18          any financial institution with capital of at least \$250,000,000  
19          may act as custodian for, instruments that constitute  
20          repurchase agreements, provided that the Illinois Housing  
21          Development Authority, in making each such investment,  
22          complies with the safety and soundness guidelines for engaging  
23          in repurchase transactions applicable to federally insured  
24          banks, savings banks, savings and loan associations or other  
25          depository institutions as set forth in the Federal Financial  
26          Institutions Examination Council Policy Statement Regarding

1 Repurchase Agreements and any regulations issued, or which may  
2 be issued by the supervisory federal authority pertaining  
3 thereto and any amendments thereto; provided further that the  
4 securities shall be either (i) direct general obligations of,  
5 or obligations the payment of the principal of and/or interest  
6 on which are unconditionally guaranteed by, the United States  
7 of America or (ii) any obligations of any agency, corporation  
8 or subsidiary thereof controlled or supervised by and acting as  
9 an instrumentality of the United States Government pursuant to  
10 authority granted by the Congress of the United States and  
11 provided further that the security interest must be perfected  
12 by either the Illinois Housing Development Authority, its  
13 custodian or its agent receiving possession of the securities  
14 either physically or transferred through a nationally  
15 recognized book entry system.

16 (j) In addition to all other investments authorized under  
17 this Section, a community college district may invest public  
18 funds in any mutual funds that invest primarily in corporate  
19 investment grade or global government short term bonds.  
20 Purchases of mutual funds that invest primarily in global  
21 government short term bonds shall be limited to funds with  
22 assets of at least \$100 million and that are rated at the time  
23 of purchase as one of the 10 highest classifications  
24 established by a recognized rating service. The investments  
25 shall be subject to approval by the local community college  
26 board of trustees. Each community college board of trustees

1 shall develop a policy regarding the percentage of the  
2 college's investment portfolio that can be invested in such  
3 funds.

4 Nothing in this Section shall be construed to authorize an  
5 intergovernmental risk management entity to accept the deposit  
6 of public funds except for risk management purposes.

7 (Source: P.A. 96-741, eff. 8-25-09; 97-129, eff. 7-14-11.)

8 Section 10. The Illinois Municipal Code is amended by  
9 changing Section 3.1-35-50 as follows:

10 (65 ILCS 5/3.1-35-50) (from Ch. 24, par. 3.1-35-50)

11 Sec. 3.1-35-50. Treasurer; deposit of funds.

12 (a) The municipal treasurer may be required to keep all  
13 funds and money in the treasurer's custody belonging to the  
14 municipality in places of deposit designated by ordinance. When  
15 requested by the municipal treasurer, the corporate  
16 authorities shall designate one or more banks or savings and  
17 loan associations in which may be kept the funds and money of  
18 the municipality in the custody of the treasurer. When a bank  
19 or savings and loan association has been designated as a  
20 depository, it shall continue as a depository until 10 days  
21 have elapsed after a new depository is designated and has  
22 qualified by furnishing the statements of resources and  
23 liabilities as required by this Section. When a new depository  
24 is designated, the corporate authorities shall notify the

1 sureties of the municipal treasurer of that fact in writing at  
2 least 5 days before the transfer of funds. The treasurer shall  
3 be discharged from responsibility for all funds or money that  
4 the treasurer deposits in a designated bank or savings and loan  
5 association while the funds and money are so deposited.

6 (b) The municipal treasurer may require any bank or savings  
7 and loan association to deposit with the treasurer securities  
8 or mortgages that have a market value at least equal to the  
9 amount of the funds or moneys of the municipality deposited  
10 with the bank or savings and loan association that exceeds the  
11 insurance limitation provided by the Federal Deposit Insurance  
12 Corporation or the Federal Savings and Loan Insurance  
13 Corporation.

14 (c) The municipal treasurer may enter into agreements of  
15 any definite or indefinite term regarding the deposit,  
16 redeposit, investment, reinvestment, or withdrawal of  
17 municipal funds.

18 (d) Notwithstanding any other provision of this Act or any  
19 other law, each official custodian of municipal funds,  
20 including, without limitation, each municipal treasurer or  
21 finance director or each person properly designated as the  
22 official custodian for municipal funds, including, without  
23 limitation, each person properly designated as official  
24 custodian for funds held by an intergovernmental risk  
25 management entity, self-insurance pool, waste management  
26 agency, or other intergovernmental entity composed solely of

1 participating municipalities, is permitted to:

2 (i) combine moneys from more than one fund of a single  
3 municipality, risk management entity, self-insurance pool,  
4 or other intergovernmental entity composed solely of  
5 participating municipalities for the purpose of investing  
6 such moneys;

7 (ii) join with any other official custodians or  
8 treasurers of municipal, intergovernmental risk management  
9 entity, self-insurance pool, waste management agency, or  
10 other intergovernmental entity composed solely of  
11 participating municipalities for the purpose of jointly  
12 investing the funds of which the official custodians or  
13 treasurers have custody; and

14 (iii) enter into agreements of any definite or  
15 indefinite term regarding the redeposit, investment, or  
16 withdrawal of municipal, risk management entity,  
17 self-insurance agency, waste management agency, or other  
18 intergovernmental entity funds.

19 When funds are combined for investment purposes as  
20 authorized in this Section, the moneys combined for those  
21 purposes shall be accounted for separately in all respects, and  
22 the earnings from such investment shall be separately and  
23 individually computed, recorded, and credited to the fund,  
24 municipality, intergovernmental risk management entity,  
25 self-insurance pool, waste management agency, or other  
26 intergovernmental entity, as the case may be, for which the

1 investment was acquired.

2 Joint investments shall be made only in investments  
3 authorized by law for investment of municipal funds. The grant  
4 of authority contained in this subsection is cumulative,  
5 supplemental, and in addition to all other power or authority  
6 granted by any other law and shall not be construed as a  
7 limitation of any power and authority otherwise granted.

8 (e) No bank or savings and loan association shall receive  
9 public funds as permitted by this Section unless it has  
10 complied with the requirements established by Section 6 of the  
11 Public Funds Investment Act.

12 (f) In addition to any other investments or deposits  
13 authorized under this Code, municipalities are authorized to  
14 invest the funds and public moneys in the custody of the  
15 municipal treasurer in accordance with the Public Funds  
16 Investment Act.

17 (Source: P.A. 89-592, eff. 8-1-96.)